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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,538	11/09/2001	Takahiro Osumi	214330US0CONT	5771

22850 7590 08/12/2002

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EXAMINER

TRAN, SUSAN T

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 08/12/2002 8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/986,538

Applicant(s)

Osumi et al.

Examiner

Susan Tran

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1615



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

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### **DETAILED ACTION**

Receipt is acknowledged of applicant's Declaration filed 01/28/02, Preliminary Amendment A filed 01/28/02, Information Disclosure Statement filed 11/28/01 and 03/14/02, and Priority Paper filed 01/28/02.

#### ***Information Disclosure Statement***

1. The information disclosure statement filed 03/14/02 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

#### ***Claim Rejections - 35 U.S.C. § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-18 and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14-18, 20, 21, and 23 are rejected in the use of the phrase "sheet-like". The phrase renders the claims indefinite because the claims include elements not actually disclosed

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(those encompassed by "sheet-like"), thereby rendering the scope of the claims unascertainable.

See MPEP § 2173.05(d).

***Claim Rejections - 35 U.S.C. § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Uemura et al. US 5,512,277.

Uemura teaches keratotic plug remover composition comprising combination of 2-acrylamide-2-methyl propane sulfonic acid polymer, and nonionic polymer, such as, polyethylene oxide, polyvinyl alcohol, hydroxyethylcellulose, or pullulan (column 2, tables 1-6, and examples). The amount of polymer is from 0.01 to 70%, and the nonionic polymer is about 5% (column 3, and examples), which if converted into ration would fall within the claimed ratio of 30:70 to 70:30. The polymers having molecular weight between 10,000 to 1,500,000 (column 3, lines 1-22). The composition further comprising pigment, *e.g.*, talc, mica, zinc oxide, or titanium oxide; oil, such as, liquid/solid paraffin, squalane, or vaseline; and other agents, *e.g.*, drugs,

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surfactants, polyethylene glycols, glycerols, ethylene glycol, or ethylene oxide (columns 4-5).

The process of removing keratotic plugs is disclosed in the examples, and claim 18.

***Claim Rejections - 35 U.S.C. § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uemura et al.

Uemura is relied upon for the reason stated above. In the case that applicant can overcome the above 102(b) rejection, the examiner relies on the following 103(a) rejection. It is the position of the examiner that it would have been prima facie obvious for one of ordinary skill in the art to, by routine experimentation modify Uemura's keratotic plugs remover composition with the expectation of at least similar result, because the reference teaches the advantageous result in the use of nonionic polymer and polymer having sulfonic group for the same purpose, *i.e.*, to remove keratotic plugs in the skin pores.

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5. Claims 14, 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uemura et al., in view of Ishida et al. US 6,221,382.

Uemura is relied upon for the reasons stated above. The reference is silent as to the teaching of keratotic plug remover composition on a sheet or film.

Ishida teaches plug remover composition on a sheet pack of moisture-permeable layer (see abstract). The sheet pack having water content of 0.1 to 30% by weight (column 9). Hence, it would have been prima facie obvious for one of ordinary skill in the art to prepare Uemura's composition in a form of sheet pack in view of the teaching of Ishida, because the references teach the use of similar composition for the same purpose, i.e., combination of polymers useful to remove keratotic plugs.

6. Claims 15, 16, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uemura et al., in view of Ishida et al. US 6,221,382..

Uemura and Ishida are relied upon for the reasons stated above. The reference is silent as to the teaching of solvent content and flowability be claimed. Absent showing evidence on the contrary, it is the examiner's position that it would have been obvious that the compositions taught by Uemura and Ishida would have similar solvent content since the compositions contain the same polymers in the same ratios as claimed, and using for the same purpose.

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***Pertinent Arts***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Uemura et al. (6,306,382), Crotty et al., Park et al., and Muchi are cited as being of interest for the teaching of keratotic plugs remove compositions.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Tran whose telephone number is . The examiner can normally be reached on Monday through Thursday from 6:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600